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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/803,281

03/18/2004

Billy K. Bayne

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EXAMINER

FOX, CHARLES A

ART UNIT

PAPER NUMBER

3652

MAIL DATE

DELIVERY MODE

09/25/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/803,281

Applicant(s)

BAYNE ET AL.

Examiner

Charles A. Fox

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3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 17, 2007 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Redding et al. Regarding claim 11 Redding et al. US 5,024,573 discloses a method of lifting containers comprising the steps of:

providing a base plate for a lifting device;

providing a face plate for interfacing with a container to be lifted;

operating a cart lift from a position where the faceplate is substantially below and inward of a hopper edge to a position where it engages a first lifting point on a refuse cart;

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further operating the device to cause a second lift point on said cart to be engaged;

further operating the device to a dumping position where the faceplate is substantially located inward of said hopper edge.

Regarding claim 13 Redding further disclose providing the hopper edge at the rear of the vehicle.

Claims 11-13 are rejected under 35 U.S.C. 102(a) as being anticipated by Arrez et al. Regarding claim 11 Arrez et al. US 6,503,045 discloses a method of lifting containers comprising the steps of:

providing a base plate for a lifting device;

providing a face plate for interfacing with a container to be lifted;

operating a cart lift from a position where the faceplate is substantially below and inward of a hopper edge to a position where it engages a first lifting point on a refuse cart;

further operating the device to cause a second lift point on said cart to be engaged;

further operating the device to a dumping position where the faceplate is substantially located inward of said hopper edge.

Regarding claims 12 and 13 Arrez et al. further disclose providing the hopper edge at the rear or the side of the vehicle.

Claim Rejections - 35 USC § 103

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Redding et al. in view of Arrez et al. Regarding claims 1,4-6,8 and 10 Redding et al. 5,024,573 teach a cart lifter comprising:

- a base plate (S) connected to a vehicle;
- a face plate (32) attached to said base plate;
- a saddle (40) fixed to said face plate;
- at least one lifting arm (20) attached to a rotatable shaft at a first end and to said face plate at a second end;
- wherein said rotatable shaft rotates at least 210 degrees;
- at least one latch arm (80) pivotally connected to the base plate at a first end and to a latch slide at a second end;
- wherein a substantial portion of said face plate is capable of being positioned behind the base plate when the device is in a lowered state and capable of rotation such that the top of the face plate is behind the base plate when in the raised position.

Redding et al. do not teach the rotation actuator as being a rotary motor. Arrez et al. US 6,503,045 teaches a lift device for carts comprising:

- a base plate;
- a frame structure for engaging a cart;
- a rotary motor for lifting said frame structure;

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at least one arm (64) connecting said frame with said motor for lifting a cart;

a saddle and a sliding latch for securing said cart during dumping;

wherein said device may be mounted on the rear or side of a collection vehicle.

It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Redding et al. with a rotary motor as taught by Arrez et al. in order to simplify the mounting of the actuator as well as reducing its size while using a well known means to operate a lift of this type.

Regarding claim 2 Redding et al. also teach the arm as being connected to an inner surface of the face plate.

Regarding claims 3 and 9 Redding et al. also teach a sliding latch guide (44) attached to the inside of said face plate.

Regarding claim 7 Redding also teach the vehicle as being a rear-loading vehicle.

Claims 14 and 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Redding et al. as applied to claim 11 above, and further in view of Arrez et al. Redding et al. teach the limitations of claim 11 as above, they further teach providing a face plate containing a saddle and a sliding latch and its associated guide. Redding et al. do not teach providing the device with a rotary motor. Arrez et al. teaches providing a lift device for carts comprising:

a base plate;

a frame structure for engaging a cart;

a rotary motor for lifting said frame structure;

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at least one arm (64) connecting said frame with said motor for lifting a cart;

a saddle and a sliding latch for securing said cart during dumping;

wherein said device may be mounted on the rear or side of a collection vehicle.

It would have been obvious to one of ordinary skill in the art, at the time of invention to modify the methods taught by Redding et al. by providing a rotary motor as taught by Arrez et al. in order to simplify the mounting of the actuator as well as reducing its size while using a well known means to operate a lift of this type.

Response to Amendment

The amendments filed on July 17, 2007 have been entered into the record.

Response to Arguments

Response to Arguments

Applicant's arguments with respect to claims 1,6,10 and 11 have been considered but are moot in view of the new ground(s) of rejection. Regarding the relative position of the faceplate and the base plate the examiner notes that both the Redding et al. and the Arrez et al. references meet the newly defined limitations. As only the cart lifter is claimed the structure it is mounted to is not clearly define other than a generic trash truck, the cited references if placed onto this same truck would meet the new limitations. When looking at figure 9 of Redding et al. and Figures 9 and 11 of Arrez et al. they both show relative positions of a base and a faceplate as shown in the drawings for the instant invention.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached on 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Cam A/Fox 9-14-07

Charles A. Fox
Primary Examiner
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